

EX PARTE OR LATE FILED



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Gina Harrison
Senior Counsel and Director
Washington Office

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JUN 24 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

June 24, 1999

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Notice of Ex Parte Meeting, Local Number
Portability Cost Recovery,
CC Docket No. 95-116

Dear Ms. Salas:

Yesterday, Robert De Broux, Director, and Mark Jenn, Manager, Federal Affairs, TDS, Pat Chirico, Executive Director, Tariffs and Rates, NECA, and I, met with Dorothy Attwood, Legal Advisor to Chairman Kennard, to discuss matters reflected in the attached. In accordance with Commission Rules, I am submitting two copies of this notice. Kindly stamp the additional return copy provided. Please direct any questions regarding this filing to me.

Sincerely,

A handwritten signature in black ink, appearing to be "Gina Harrison", is written over a horizontal line.

Gina Harrison
Attachments
cc: D. Attwood

No. of Copies rec'd
List ABCDE

041



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Gina Harrison
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Washington Office

Stamp

March 19, 1999

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, D.C. 20554

RECEIVED

MAR 19 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Notice of Ex Parte Meeting, Number
Portability Cost Recovery, CC Docket
No. 95-116

Dear Ms. Salas:

Yesterday, David Cohen, Vice President, Small Company Affairs, and John Hunter, Senior Counsel, both of United States Telephone Association, Margot Smiley Humphrey, Esq., of Koteen and Naftalin, on behalf of National Rural Telecom Association, Jill Canfield, Regulatory Counsel, National Telephone Cooperative Association, Kathleen A. Kaercher, General Counsel, and Stuart Polikoff, Director of Government Relations, both of the Organization for the Promotion and Advancement of Small Telecommunications Companies, and I met with Yog Varma, Deputy Chief, Common Carrier Bureau, to discuss issues which are summarized in the attached Petition for Expedited Interim Waiver filed today. In addition, I briefly spoke with Kris Monteith, Deputy Chief, Competitive Pricing, about these same matters.

In accordance with Commission Rules, I am submitting two copies of this notice. Kindly stamp the additional return copy provided. Please direct any questions regarding this filing to me.

Sincerely,



Gina Harrison

Attachment
cc: Y. Varma
K. Monteith

Stamp

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20054

RECEIVED

MAR 19 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Joint Petition of the National Exchange)
Carrier Association, Inc. (NECA), National)
Rural Telecom Association (NRTA),)
National Telephone Cooperative)
Association (NTCA), Organization)
for the Promotion and Advancement)
of Small Telecommunications Companies)
(OPASTCO), and United States)
Telephone Association (USTA))
for Expedited Interim)
Waiver of Section 52.33(a) of the)
Commission's Rules)

CC Docket No. 95-116

TO: The Common Carrier Bureau.

PETITION FOR EXPEDITED INTERIM WAIVER

The National Exchange Carrier Association, Inc. (NECA), National Rural Telecom Association (NRTA), National Telephone Cooperative Association (NTCA), Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), and United States Telephone Association (USTA), (collectively referred to as "Telephone Associations"), hereby request waiver of section 52.33(a) of the Commission's Rules.¹ Waiver of section 52.33(a), which relates to the recovery of local

¹ 47 C.F.R. § 52.33(a) states:

Incumbent local exchange carriers may recover their carrier-specific costs directly related to providing long-term number portability by establishing in tariffs filed with the Federal Communications Commission a monthly number-portability charge, as specified in subparagraph (a)(1), and a number portability query-service charge, as specified in subparagraph (a)(2).

- (1) The monthly number-portability charge may take effect no earlier than February 1, 1999, on a date the incumbent local exchange carrier selects, and may end no later than five years after that date.

number portability (LNP) costs, is required only to the extent that this rule can be read to prohibit incumbent local exchange carriers (ILECs) who are not obligated to provide LNP in specific serving areas (*i.e.*, "non-LNP-providing ILECs") from directly assigning their on-going carrier-specific LNP costs to the interstate jurisdiction for recovery via traffic sensitive (TS) interstate access charges.

I. Background

Under Commission rules implementing section 251(e) of the Telecommunications Act of 1996, all carriers incur costs for the provision of LNP regardless of whether they are currently required to provide LNP.

In particular, all ILECs are required to contribute to the cost of the regional Number Portability Administration Centers (NPACs) established pursuant to Commission orders in CC Docket No. 95-116.² More significantly, section 52.33 of the Commission's rules allows ILECs who provide LNP to assess number portability query-service charges upon carriers that terminate traffic in areas served by LNP-capable switches.³ Many ILECs that are not required to provide LNP have joint local calling

-
- (i) An incumbent local exchange carrier may assess each end user it serves in the 100 largest metropolitan statistical areas, and each end user it serves from a number-portability-capable switch outside the 100 largest metropolitan statistical areas, . . .

- (2) The number portability query-service charge may recover only carrier-specific costs directly related to providing long-term number portability that the incumbent local exchange carrier incurs to provide long-term number portability query service to carriers on a prearranged and default basis.

² See 47 C.F.R. § 52.32. See also Telephone Number Portability, CC Docket No. 95-116, *Third Report and Order*, 13 FCC Rcd 11701 (1998) at ¶¶ 87-93 (*LNP Cost Recovery Order*).

³ For example, on a local call from a non-LNP providing ILEC's end-user customer, the non-LNP providing ILEC would be the N-1 carrier required to query the database. In most instances, larger ILECs will be providing the database query service, assessing charges on the non-LNP providing ILEC for this service.

agreements with carriers who are, or soon will be, providing number portability. In these instances, non-LNP-providing ILECs serve as the "N-1" carrier for all calls placed to NXXs served by the LNP-providing carrier, and incur usage-based charges for virtually all calls terminating in the neighboring ILEC's LNP-capable exchanges. Costs associated with these charges are expected to be substantial.

Newly-promulgated section 52.33(a) of the Commission's Rules permits ILECs who provide LNP to recover their carrier-specific LNP costs through a federally-tariffed monthly end-user charge beginning February 1, 1999.⁴ The rule makes plain, however, that these end-user charges may only be applied by ILECs serving end-users in the 100 largest metropolitan statistical areas (MSAs).⁵ Outside the 100 largest MSAs, the charge may be applied to end-users served from a LNP-capable switch.⁶

No apparent mechanism exists for recovery of LNP costs incurred by non-LNP-providing ILECs.⁷ The Commission's *LNP Cost Recovery Order* stated that, "recovery from end users should be designed so that end users generally receive the charges *only when and where they are reasonably able to begin receiving the direct benefits of long-term number portability*."⁸ Thus it is not clear how ILECs that do not provide service from an LNP-capable switch or who serve end-users outside the largest 100 MSAs will recover their ongoing LNP costs.

⁴ 47 C.F.R. § 52.33(a).

⁵ *Id.*

⁶ *Id.*

⁷ See CC Docket 95-116, NECA Expedited Petition for Reconsideration (filed July 29, 1998).

⁸ *LNP Cost Recovery Order* at ¶ 142 (emphasis added).

II. Waiver Request

The Telephone Associations therefor request that the Commission waive the requirements of section 52.33(a) of its rules. Waiver is needed to the extent that section 52.33(a) can be read to prohibit non-LNP-providing ILECs from directly assigning on-going LNP costs to the interstate jurisdiction for recovery via TS access charges. This type of recovery is consistent with the Commission's determination that LNP costs are wholly interstate.⁹ The requested waiver would be in effect on an interim basis, pending resolution of cost recovery issues raised in Petitions for Reconsideration of the Commission's *LNP Cost Recovery Order*.

Grant of the requested waiver would permit non-LNP-capable ILECs to recover their on-going LNP costs via TS access charges. Direct assignment of these costs for recovery via TS access charges provides a reasonable opportunity for non-LNP-providing ILECs to recover their LNP costs, while satisfying the Commission's policy against imposing end user charges on customers who do not receive the direct benefits of LNP.¹⁰ Allowing non-LNP-providing ILECs to recover their LNP costs in this manner is also consistent with the Act's requirement that LNP costs be recovered in a "competitively-neutral" manner, and will not unfairly burden the competitive position of interexchange carriers or other classes of customers.

⁹ See *LNP Cost Recovery Order* at ¶ 29.

¹⁰ See *Id.* at ¶ 142.

III. Conclusion

Good cause having been shown, the Telephone Associations respectfully request an interim Commission waiver or clarification of the requirements of section 52.33(a) of the Commission Rules, so as to allow non-LNP-providing ILECs to recover their LNP-related costs. Until the Commission develops a permanent cost-recovery mechanism for non-LNP-providing ILECs, the Commission should permit such companies to directly assign their LNP-related costs to the interstate jurisdiction for recovery via interstate TS access charges.

Respectfully submitted,

March 19, 1999

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Local Number Portability Talking Points

- 18 TDS TELECOM operating companies serving approximately 169,000 access lines have EAS routes to large metropolitan areas where LNP has already been deployed. These companies will incur costs but have no means for recovery under current rules.
- Based on historical EAS call volumes and the prearranged query rates of major carriers serving the adjacent metropolitan areas, TDS TELECOM is expecting to incur nearly \$650,000 in query charges on an annual basis. (See Table 1) This does not include query costs for toll traffic or funding for the regional NPACs.
- The level of query costs may not appear large compared to overall industry revenues, however, when viewed on a per line basis for the affected companies, the impact can be significant. Estimates for TDS TELECOM companies range from \$0.01-\$0.87 per line, per month for query costs for EAS traffic alone.
- Costs will continue to grow as additional markets are opened for porting.
 - ◆ Some RBOCs, (Bell Atlantic, Bell South) are deploying LNP system-wide.
 - ◆ Other 2nd and 3rd tier markets have been selected for LNP deployment.
 - ◆ Mandatory number pooling could open additional markets.
- Carriers such as Cincinnati Bell and Ameritech have already begun to bill for routing services. SBC and Bell Atlantic will begin billing in June and will include charges retroactive to 7/1/98 and 11/30/98, respectively. A few carriers continue to encounter problems capturing query counts including Bell South and US West. (See Table 2)
- TDS TELECOM, as well as other small and mid-sized carriers, is pursuing channels to minimize query costs, but these measures can only go so far.
 - ◆ ILECs may be able to perform their own queries by accessing RBOC databases.
 - ◆ Some costs may be passed through to carriers who terminate traffic via ILEC networks.
 - ◆ Potential annual savings for TDS TELECOM in the range of \$200,000-\$250,000.
- State regulators continue to be concerned about these unrecoverable costs and, through a resolution at the most recent NARUC meetings, have requested that the FCC taken action.
- Directly assigning query and NPAC costs as interstate for recovery via access charges, at least in the interim, will avert negative consequences by distributing costs across many carriers and lessening the impact to individual ILECs while having little affect on access rates.
- Numerous questions remain unresolved regarding cost recovery for Rate of Return ILECs after LNP is implemented.
 - ◆ Fewer customers over which to spread costs could lead to very high end-user charges.
 - ◆ Recovery for ongoing costs after the 5-year window for end-user charges closes.

Table 1

DETAILED QUERY COST ESTIMATES

	Annual Originating EAS Calls (A)	Query Rate (B)	Annual Query Expense (C) = (A) * (B)	Access Lines (D)	Monthly Cost Per Line (E) = (C) / (D)
TDS TELECOM Companies					
TDS Company 1	231,045 \$	0.003094 \$	714.85	1,573 \$	0.04
TDS Company 2	1,143,023 \$	0.000926 \$	1,058.44	1,679 \$	0.05
TDS Company 3	4,744,426 \$	0.003094 \$	14,679.25	3,801 \$	0.32
TDS Company 4	66,547,936 \$	0.001761 \$	117,190.92	21,817 \$	0.45
TDS Company 5	2,153,377 \$	0.001540 \$	3,316.20	2,934 \$	0.09
TDS Company 6	1,320,100 \$	0.000926 \$	1,222.41	7,203 \$	0.01
TDS Company 7	6,474,318 \$	0.003886 \$	25,159.20	5,696 \$	0.37
TDS Company 8	11,563,032 \$	0.001761 \$	20,362.50	7,126 \$	0.24
TDS Company 9	10,500,605 \$	0.001190 \$	12,495.72	9,527 \$	0.11
TDS Company 10	1,024,950 \$	0.001190 \$	1,219.69	802 \$	0.13
TDS Company 11	2,667,837 \$	0.000926 \$	2,470.42	3,454 \$	0.06
TDS Company 12	35,653,878 \$	0.004227 \$	150,708.94	14,517 \$	0.87
TDS Company 13	17,755,660 \$	0.003094 \$	54,936.01	5,982 \$	0.77
TDS Company 14	1,354,306 \$	0.003094 \$	4,190.22	2,587 \$	0.13
TDS Company 15	101,547,524 \$	0.001761 \$	178,825.19	60,617 \$	0.25
TDS Company 16	10,933,676 \$	0.003094 \$	33,828.79	10,222 \$	0.28
TDS Company 17	2,090,511 \$	0.003094 \$	6,468.04	2,306 \$	0.23
TDS Company 18	6,043,232 \$	0.003094 \$	18,697.76	7,478 \$	0.21
Subtotal for TDS Companies	283,749,436	- \$	647,544.56	169,321 \$	0.32
Other NECA Companies					
NECA Company 1	6,056,028 \$	0.003886 \$	23,533.72	4,305 \$	0.46
NECA Company 2	6,758,040 \$	0.003886 \$	26,261.74	3,830 \$	0.57
NECA Company 3	9,445,884 \$	0.003886 \$	36,706.71	9,568 \$	0.32
NECA Company 4	663,300 \$	0.001190 \$	789.33	7,073 \$	0.01
NECA Company 5	1,800,000 \$	0.001190 \$	2,142.00	8,075 \$	0.02
NECA Company 6	6,209,220 \$	0.001190 \$	7,388.97	51,272 \$	0.01
NECA Company 7	1,656,564 \$	0.001190 \$	1,971.31	1,195 \$	0.14
NECA Company 8	2,880,000 \$	0.001761 \$	5,071.68	19,970 \$	0.02

Table 2

ACTUAL QUERY COST LIABILITY FOR SELECTED COMPANIES

Companies (Access Lines)	1998		January-99		February-99		March-99		April-99		May-99		Total First Bill	
	Total Cost	Cost Per Line	Total Cost	Cost Per Line	Total Cost	Cost Per Line	Total Cost	Cost Per Line	Total Cost	Cost Per Line	Total Cost	Cost Per Line	Total Cost	Cost Per Line
Company A (4,518 Lines)	\$ 754.43	\$ 0.17	\$ 482.75	\$ 0.11	\$ 726.59	\$ 0.16	\$ 211.59	\$ 0.05	Unavailable		Unavailable		Unavailable	
Company B (472 Lines)	\$ 51.05	\$ 0.11	\$ 32.79	\$ 0.07	\$ 51.85	\$ 0.11	\$ 15.17	\$ 0.03	Unavailable		Unavailable		Unavailable	
Company C (1,720 Lines)	NA		NA		\$ 600.76	\$ 0.35	\$ 220.03	\$ 0.13	Unavailable		Unavailable		Unavailable	
Company D (2817 Lines)	NA		NA		\$ 281.80	\$ 0.10	\$ 104.60	\$ 0.04	Unavailable		Unavailable		Unavailable	
Sub-Total for A-D (9,527 Lines)	\$ 805.48	\$ 0.16	\$ 515.54	\$ 0.10	\$ 1,660.99	\$ 0.17	\$ 551.39	\$ 0.06	\$ 981.22	\$ 0.10	\$ 1,041.31	\$ 0.11	\$ 5,555.94	\$ 0.58
Company E (802 Lines)	\$ 650.24	\$ 0.81	\$ 113.95	\$ 0.14	\$ 32.17	\$ 0.04	\$ 121.10	\$ 0.15	\$ 96.60	\$ 0.12	\$ 103.99	\$ 0.13	\$ 1,118.05	\$ 1.39
Company F (2,934 Lines)	NA		NA		\$ 67.15	\$ 0.02	\$ 276.35	\$ 0.09	\$ 262.53	\$ 0.09	Unavailable		\$ 606.03	\$ 0.21
Totals (13,263 Lines)	\$ 1,455.72	\$ 0.29	\$ 629.49	\$ 0.13	\$ 1,760.31	\$ 0.13	\$ 948.84	\$ 0.07	\$ 1,340.35	\$ 0.10	\$ 1,145.30	\$ 0.11	\$ 7,280.02	\$ 0.55

NOTES

NA = Not Applicable, prior to LNP deployment in MSA.

Unavailable = Charges assessed during this period, but data not available at this time.

**Resolution Urging that the FCC Address Potential Gaps in its
Local Number Portability Cost Recovery Rules**

WHEREAS, The Telecommunications Act of 1996 requires all local exchange carriers to provide telephone Local Number Portability (LNP) in accordance with FCC requirements; and

WHEREAS, The FCC has established a timeline and procedures for LNP implementation as well as a method of cost recovery through interstate means for incumbent local exchange carriers who establish the ability to port numbers; and

WHEREAS, Incumbent local carriers that are not yet required provide porting capabilities at this time, many of which are small, rural carriers, have begun to incur significant costs related to properly routing calls to ported numbers and funding regional LNP administrators which are not recoverable under current rules; and

WHEREAS, Numerous petitions for reconsideration have been pending since July 29, 1998, at the FCC on this issue requesting action be taken to address interstate recovery limitations; now therefore be it

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened at its 1999 Winter Meetings in Washington, D.C., urges the FCC's timely resolution of the pending petitions for reconsideration of its LNP cost recovery for all incumbent local exchange carriers regardless of whether or not the carrier is required to port telephone numbers; and be it further

RESOLVED, That the NARUC General Counsel be directed to undertake any appropriate actions to further the intent of this resolution.

Sponsored by the Committee on Telecommunications
Adopted February 24, 1999